

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

v.

BHASKAR SAVANI, *et al.*

Criminal No. 23-16
Hon. Jeffrey L. Schmehl

**DEFENDANT SUNIL PHILIP’S REPLY TO THE GOVERNMENT’S RESPONSE TO
THE SAVANIS’ MOTION TO CONTINUE TRIAL AND PRETRIAL DEADLINES**

The Government misunderstands Mr. Philip’s opposition to the Savanis’ Motion to Continue Trial and Pretrial Deadlines (Dkt. 399). Mr. Philip does not intend to “reserv[e] the right to delay the trial” depending on the outcome of *Kousisis v. United States* (No. 23-909). Dkt. 417 at 2 n.2. Rather, Mr. Philip—a professional accountant who has been living under the cloud of this Indictment for almost two years—desires to vindicate his constitutional and statutory right to a speedy trial. Although the outcome in *Kousisis* may ultimately affect the charges in this case, the Court can properly address any effect of *Kousisis* either during or after trial in the context of an appropriate defense motion. It should not postpone the trial indefinitely to await a decision that may or may not come out in the defense’s favor.

Nor can it simply be assumed that any delay based on *Kousisis* would be excludable under 18 U.S.C. § 3161(h). Whether a defendant’s right to a speedy trial has been violated is a complex question that requires a balancing of “the conduct of both the prosecution and the defendant” and “necessarily compels courts to approach speedy trial cases on an ad hoc basis.” *Barker v. Wingo*, 407 U.S. 514, 530 (1972). It cannot be evaluated in such a perfunctory fashion as the Government suggests. Dkt. 417 at 2 ¶ 4. Moreover, the *Barker* factors cited by the Government “are neither ‘a necessary or sufficient condition to the finding of a deprivation of

the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant.” *Barker*, 407 U.S. at 533.

The Government is also wrong to imply that Mr. Philip cannot identify “any prejudice whatsoever that will result from a continuance.” Dkt. 417 at 2 ¶ 4. The Third Circuit has explained that “[v]arious types of prejudice can result from a pretrial delay,” including “the accused’s anxiety and concern over the outcome of the litigation or impairment of the defense” or “general concern over the delay’s effect on the reliability of the truth finding process.” *Hakeem v. Beyer*, 990 F.2d 750, 760 (3d Cir. 1993).

The Government acknowledges, as it must, that *Kousisis* may not be decided until the summer of 2025. That would mean a trial in the fall of 2025 at the earliest—almost three years after the filing of the Indictment. There is ample reason to believe that Mr. Philip would be prejudiced by such a lengthy delay, particularly where the reason for the delay is attributable to speculation over the potential result of a case before the Supreme Court. Should the Court be inclined to grant the Savanis’ continuance request, it should grant the parties the opportunity to separately brief the speedy trial and severance issues that underlie Mr. Philip’s opposition.

For the foregoing reasons, and for the reasons previously stated, Mr. Philip respectfully requests that the Court deny the Savanis’ Motion to Continue Trial and Pretrial Deadlines or, in the alternative, grant Mr. Philip a severance.

Respectfully submitted,

/s/ Patrick J. Egan

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December 5, 2024

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2024, I caused a true and correct copy of the foregoing to be filed through the Court's electronic filing system (CM/ECF), which will then send notice of filing to all parties of record.

/s/ Patrick J. Egan
Patrick J. Egan